

Message

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**From:** Morgan Johnson [Morgan.Johnson@kirbycorp.com]  
**Sent:** 5/22/2019 2:39:15 AM  
**To:** scott.green@tceq.texas.gov; robert.patton@tceq.texas.gov  
**CC:** Florey, Jim [JFlorey@braunintertec.com]; Mike Gaudet [mgaudet@iterm.com]; Todd Behlke [Todd.Behlke@kirbycorp.com]; spill12 [spill12@tceq.texas.gov]; Brent Weber [bweber@iterm.com]; Kendra.Bernhagen@Tceq.Texas.Gov [Kendra.Bernhagen@tceq.texas.gov]; Adams, Adam [Adams.Adam@epa.gov]; Adams, Andy [AAdams@braunintertec.com]  
**Subject:** Re: Barge waste transportation re: ITC incident

Scott/Bob,

Please reference the email string below regarding the review and approval by Unified Command to treat and/or dispose of waste related to the ITC incident at Southwest Shipyard. Involved parties from EPA, TCEQ, ITC and its contractor, and Kirby are included in this email to ensure that everyone is on the same page.

As we discussed today, Kirby wants to confirm that it can move its barge containing recovered liquids from the incident, which have been determined by ITC to be hazardous waste, from ITC's dock to Kirby's fleet for further staging. It is our understanding that all on-water recovery equipment associated with the spill response are being taken to Southwest Shipyard for emptying and cleaning, with Southwest either treating and disposing of the material or arranging for further transport of the waste to an offsite disposal facility. Southwest Shipyard does not currently have the capacity to take the barge now, so we expect it will be staged in fleet for a period up to 4 weeks. While Kirby is registered with TCEQ as a hazardous waste transporter, we are concerned the movement of the barge from the dock to the fleet triggers "transportation" and potentially "storage" under TCEQ's Chapter 335 regulations.

There appears to be an opportunity to exempt the barge fleeting operation under 335.41(d)(2) for "waste containment related to immediate spill response", but 335.41(d)(2)(C) limits its use. I have not been able to find any helpful context in the regulation or guidance to allow us to determine that TCEQ would agree the exemption applies to this scenario. As such, please discuss the intended barge staging and the use of SWSY for the disposal facility with the TCEQ and EPA members attached to this email to reach a conclusion on how we can proceed in compliance with the waste regulations.

Thank you,

Morgan Johnson, PE  
Environmental Compliance Manager  
Kirby Corporation  
713-435-1311 office  
832-472-1153 mobile

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**From:** Adams, Adam <Adams.Adam@epa.gov>  
**Sent:** Tuesday, May 21, 2019 7:04 PM  
**To:** Adams, Andy  
**Cc:** Florey, Jim; Morgan Johnson; Mike Gaudet; Todd Behlke; spill12; Brent Weber; Kendra.Bernhagen@Tceq.Texas.Gov  
**Subject:** Re: [External] FW: Notification

Thanks for confirming the hold on wastes, Andy.

I'm forwarding a copy of the SW permit that is an attachment to the vessel decon plan for all's reference.

Adam

Sent from my iPhone

On May 21, 2019, at 7:02 PM, Adams, Andy <[AAadams@braunintertec.com](mailto:AAadams@braunintertec.com)> wrote:

Adam / Kendra - bringing in Brent (already CCed) and Mike on this.

Morgan - can you let all the EPA and TCEQ folks in Unified Command know who at TCEQ raised this issue with you? Adam and Kendra are the on-site oversight for this incident. We have permission (before this issue) to take the CERCLA waste to SWSYs per the email below.

I assume it's a misunderstanding among folks at TCEQ, just want to get to the source of the concern. Thanks.

Adam - noted, no additional liquids are scheduled at this time.



**Andrew "Andy" Adams, CHMM**  
Principal  
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<http://wh-m.com> | [Twitter](#) | [LinkedIn](#) | [Facebook](#)

**We Get Projects Done!**

On May 21, 2019, at 5:56 PM, Adams, Adam <[Adams.Adam@epa.gov](mailto:Adams.Adam@epa.gov)> wrote:

Thanks for the cc.

Suggest no further liquids go there from either site until the permit issue is resolved.

Adam

Sent from my iPhone

On May 21, 2019, at 4:21 PM, Florey, Jim <[JFlorey@braunintertec.com](mailto:JFlorey@braunintertec.com)> wrote:

Morgan,

TCEQ is copied on this message. You may forward to TCEQ personnel, as needed.

Jim

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**From:** Morgan Johnson <[Morgan.Johnson@kirbycorp.com](mailto:Morgan.Johnson@kirbycorp.com)>  
**Sent:** Tuesday, May 21, 2019 4:20 PM  
**To:** Florey, Jim <[JFlorey@braunintertec.com](mailto:JFlorey@braunintertec.com)>  
**Cc:** Mike Gaudet <[mgaudet@item.com](mailto:mgaudet@item.com)>; Todd Behlke <[Todd.Behlke@kirbycorp.com](mailto:Todd.Behlke@kirbycorp.com)>; Adams, Andy <[AAdams@braunintertec.com](mailto:AAdams@braunintertec.com)>; spill12 <[spill12@tceq.texas.gov](mailto:spill12@tceq.texas.gov)>; Adams, Adam <[adams.adam@epa.gov](mailto:adams.adam@epa.gov)>  
**Subject:** Re: [External] FW: Notification

Thank you. Is ITC ok with me forwarding to TCEQ? It will help expedite the approval.

Morgan

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**From:** Florey, Jim <[jflorey@braunintertec.com](mailto:jflorey@braunintertec.com)>  
**Sent:** Tuesday, May 21, 2019 4:18 PM  
**To:** Morgan Johnson  
**Cc:** Mike Gaudet; Todd Behlke; Adams, Andy; spill12; Adams, Adam  
**Subject:** [External] FW: Notification

Morgan,

Please see below communication from EPA indicating approval for Southwest Shipyard.

Hope this helps,  
Jim

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**From:** Adams, Andy <[AAdams@braunintertec.com](mailto:AAdams@braunintertec.com)>  
**Sent:** Wednesday, May 15, 2019 5:57 PM  
**To:** Gaudet Mike <[mgaudet@item.com](mailto:mgaudet@item.com)>  
**Cc:** Florey, Jim <[JFlorey@braunintertec.com](mailto:JFlorey@braunintertec.com)>  
**Subject:** Re: Notification

Will get profile determination and manifest over tomorrow!



**Andrew “Andy” Adams, CHMM**  
Principal  
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## We Get Projects Done!

On May 15, 2019, at 5:47 PM, Adams, Adam  
<[Adams.Adam@epa.gov](mailto:Adams.Adam@epa.gov)> wrote:

Mike,  
Be advised that per the forwarded email,  
Southwest Shipyards is on the list of acceptable  
facilities.

Please share a copy of the facility approved  
disposal profile and waste characterization sheet  
for the first waste that is planned to be taken there  
for disposal.

Adam

Sent from my iPhone

Begin forwarded message:

**From:** "Shannon, Wilkin"  
<[shannon.wilkin@epa.gov](mailto:shannon.wilkin@epa.gov)>  
**Date:** May 15, 2019 at 5:41:49 PM  
CDT  
**To:** "Adams, Adam"  
<[Adams.Adam@epa.gov](mailto:Adams.Adam@epa.gov)>  
**Cc:** "Moore, Gary"  
<[Moore.Gary@epa.gov](mailto:Moore.Gary@epa.gov)>  
**Subject:** RE: Notification

Hello Adam & Gary, yes Southwest  
Shipyards is acceptable for CERCLA  
waste. A determination letter will be  
sent to the facility.

-----Original Message-----

From: Adams, Adam  
Sent: Wednesday, May 15, 2019  
4:09 PM  
To: Shannon, Wilkin  
<[shannon.wilkin@epa.gov](mailto:shannon.wilkin@epa.gov)>  
Cc: Moore, Gary  
<[Moore.Gary@epa.gov](mailto:Moore.Gary@epa.gov)>

Subject: Notification

Ron,  
Much appreciation for getting that letter out today. Now that we have a response from state, can I get a confirmed notification from you that SW is acceptable?

Thank you again  
Adam

Sent from my iPhone

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